

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL JOHN PISKANIN, JR.,	:	CIVIL ACTION NO. 1:12-CV-0908
	:	
Plaintiff,	:	(Judge Conner)
	:	
v.	:	
	:	
DISTRICT ATTORNEY JAMES B. MARTIN, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 23rd day of May, 2012, upon preliminary consideration of plaintiff's civil rights action pursuant to 42 U.S.C. § 1983, and it appearing that he seeks to proceed in forma pauperis (Doc. 6), 28 U.S.C. § 1915, and it further appearing that the "three strikes" provision of the Prison Litigation Reform Act of 1996 ("PLRA"), codified at 28 U.S.C. § 1915(g), prohibits him from proceeding in forma pauperis as he has had three prior actions or appeals dismissed as frivolous, malicious, or for failing to state a viable claim¹, and it further appearing that there is

¹The following recitation was set forth in a report and recommendation of United States Magistrate Judge Lisa Pupo Lenihan, which was adopted by the Honorable Kim R. Gibson, United States District Court for the Western District of Pennsylvania in Piskanin v. PA Dept. of Corrections, No. 09-3221, 2010 WL 3834878, *1 (W.D. Pa. Sept. 27, 2010):

Specifically, in Michael J. Piskanin v. Kelly L. Banach et al., Civil Action No. 07-4655 (E.D.Pa.), his action was dismissed *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted by Order dated December 15, 2008. In Michael J. Piskanin v. Gary Hammer et al., Civil No. 07-2518, the Court of Appeals for the Third Circuit dismissed his action pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) as

no indication that plaintiff “is under imminent serious physical injury,” 28 U.S.C. § 1915(g) (setting forth the three strikes rule which provides that an inmate who has three prior actions or appeals dismissed as frivolous, malicious, or for failing to state a viable claim may not proceed in forma pauperis “unless the prisoner is under imminent danger of serious physical injury”); see also Abdul-Akbar v. McKelvie, 239 F.3d 307, 312 (3d Cir. 2001) (en banc), it is hereby ORDERED that:

1. Plaintiff’s motion to proceed in forma pauperis (Doc. 6) is DENIED.
2. The administrative order (Doc. 8) is hereby VACATED. The Clerk of Court shall send notice to the warden at plaintiff’s present place of incarceration.
3. Plaintiff’s complaint (Doc. 1) is DISMISSED without prejudice, pursuant to 28 U.S.C. § 1915(g).
4. The Clerk of Court is directed to CLOSE this case.
5. Any appeal from this order is DEEMED frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

frivolous and/or malicious by Judgment dated March 18, 2008. In Michael J. Piskanin v. Court of Common Please of Lehigh County et al., Civil No. 09-3614, the Court of Appeal for the Third Circuit dismissed the action pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) as frivolous and/or malicious by Judgment dated December 29, 2009.

Piskanin v. PA Dept. of Corrections, No. 09-3221, 2010 WL 3834845, *1 (W.D. Pa. Aug 17, 2010).